

James P. O'Brien
O'Brien Law Office, P.C.
212 West Spruce Street
P.O. Box 7936
Missoula, Montana 59807-7936
Telephone: (406) 721-0660
jpoblaw@yahoo.com

Douglas D. Harris
DOUGLAS HARRIS LAW OFFICES
Attorney at Law
322 West Spruce Street
P.O. Box 7937
Missoula, Montana 59807-7937
Telephone: (406) 549-5176
Fax: (406) 549-5177
sprucelaw@blackfoot.net

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SHIRLEY E. FAUST, CLERK
By *[Signature]* Deputy

ATTORNEYS FOR PLAINTIFF KRISTINA M. KEYS

Jeffrey W. Dahood
KNIGHT & DAHOOD
Attorney at Law
113 East 3rd Street
P.O. Box 727
Anaconda, Montana 59711
Telephone: (406) 563-3242
jdahood@kdesdlaw.com

ATTORNEYS FOR PLAINTIFF JOHN JEWELL

MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA COUNTY

KRISTINA M. KEYS and
JOHN JEWELL,

Plaintiffs,

v.

WESTERN MONTANA
MENTAL HEALTH
CENTER, COMMUNITY
COUNSELING &
CORRECTIONAL SERVICES,
INC., MONTANA DEPARTMENT
OF CORRECTIONS, DIVISION
OF COMMUNITY
CORRECTIONS,
JOHN SMITHS 1-5 AND 6-10,
AND ENTITIES A, B, AND C,

Defendants.

Dept. No. 1

Cause No. DV-14-370

**AMENDED COMPLAINT AND
DEMAND FOR JURY TRIAL**

ORIGINAL

5.5

1 COME NOW, the Plaintiffs, above-named, and claim and allege as
2 follows:

3 **FACTS APPLICABLE TO ALL COUNTS**

- 4 1. KRISTINA M. KEYS is a resident of Powell County, Montana. At all
5 times pertinent, KRISTINA M. KEYS was a patient, client, and customer
6 of WESTERN MONTANA MENTAL HEALTH CENTER (hereinafter
7 WMMHC). JOHN JEWELL, at all times relevant to the facts of this
8 matter, is the husband of KRISTINA M. KEYS. Due to the
9 circumstances of this matter, the parties are separated and JOHN
10 JEWELL is the Petitioner in a Dissolution of Marriage matter filed in the
11 Powell County District Court.
- 12 2. Defendant WMMHC is a Montana corporation that has its management
13 offices and principal place of business in Missoula County, Montana and
14 WMMHC does business in Silver Bow, Deer Lodge, Powell and Missoula
15 Counties, among other Montana Counties.
- 16 3. Defendant COMMUNITY, COUNSELING AND CORRECTIONAL
17 SERVICES, INC. (hereinafter CCCS) is a Montana corporation with its
18 principal place of business in Butte-Silver Bow County, Montana. CCCS
19 operates the Butte Pre-Release Center which is a community-based
20 residential facility for adult male offenders.
- 21 4. John Smith 1 is a pseudonym used within this *Complaint* for reason
22 that the facts of this action include confidential criminal justice
23 information for which John Doe has not yet been served.
- 24 5. John Smiths 2-5 and John Smiths 6-10 are as yet unidentified
25 individuals who may bear personal liability to Plaintiffs for the acts and
26 incidents pleaded in this *Complaint*.
- 27 6. The Department of Corrections is a political subdivision of the state of
28 Montana. The acts of negligence alleged here took place through the

1 Department of Corrections, Division of Community Corrections, though
2 various subdivisions which include the Probation and Parole Bureau,
3 the Connections Corrections Program and the Adult Pre-release Unit
4 and may include as yet unidentified acting on behalf of these identified
5 political subdivisions of the State of Montana.

6 7. On or about August 12, 2012, KRISTINA M. KEYS, while suffering from
7 a suicide attempt, required emergency services with the Hays Morris
8 House in Butte, Montana, a licensed mental health care facility owned
9 and operated by Western Montana Mental Health Center, Inc.

10 8. The Hays Morris House provides crisis stabilization through a 24-hour
11 monitoring for persons suffering from a mental health crisis, while also
12 offering a safe environment for medication changes in a therapeutic
13 setting. John Smith 1 was an employee of WMMHC and he was
14 allowed by WMMHC to have access to KRISTINA M. KEYS during her
15 residency at Hays Morris House.

16 9. At the time of KRISTINA M. KEYS' admissions to the Hays Morris
17 House, WMMHC employed John Smith 1 as its employee in the position
18 of crisis intervention.

19 10. KRISTINA M. KEYS was released from Hays Morris House and returned
20 to her home in Deer Lodge, Montana on or about September 11, 2012.

21 11. Following KRISTINA M. KEYS' release from the Hay Morris facility and
22 during August and September, 2012, John Smith 1 maintained contact
23 with KRISTINA M. KEYS as her crisis intervention point of contact and
24 he provided KRISTINA M. KEYS his personal cell phone number.

25 12. On or about October 10, 2012, Christopher Brock Marez came to
26 KRISTINA M. KEYS' residence for a welfare check. There he sat down
27 for supper with KRISTINA M. KEYS and family. Thereafter, Christopher
28 Brock Marez told KRISTINA M. KEYS that they had to speak alone, and

1 he took KRISTINA M. KEYS in his vehicle and drove onto a rural road
2 south of Deer Lodge to a place where he assaulted her and forced
3 upon her violent sexual intercourse without consent.

- 4 13. At all times pertinent hereto, Christopher Brock Marez was in the legal
5 custody of the Department of Corrections, State of Montana.

6 **COUNT 1**

- 7 14. Plaintiff realleges each and every allegation of ¶¶ 1-13 above as
8 though fully incorporated herein.

- 9 15. WMMHC through its management and employees breached its duty of
10 care to reasonably investigate, screen, select, place, train, and
11 supervise John Smith 1 by negligently: (1) failing to screen John Smith
12 1 for patient safety; (2) failing to provide sufficient staff supervision of
13 its inmates to protect KRISTINA M. KEYS and other mental health
14 patients from violent and sexual predation; (3) failing to follow
15 reasonable safety procedures; (4) failing to provide necessary and
16 appropriate security measures to insure its inmates did not have
17 personal contact with patients; (5) failing to develop and implement a
18 system and corresponding plan for inmates employed by WMMHC to
19 prevent violent and sexual predation with patients; (6) failing to
20 properly monitor its inmates to prevent violent and sexual predation by
21 staff upon patients; and, (7) failing to provide necessary and
22 appropriate personnel to insure for the safety, welfare, and protection
23 of KRISTINA M. KEYS and other female mental health patients.

- 24 16. As a consequence of the WMMHC actions, KRISTINA M. KEYS was
25 raped by John Smith 1 and she suffered physical and emotional
26 injuries, emotional distress and deprivation of her constitutional rights.

27 **COUNT II**

- 28 17. Plaintiff realleges each and every allegation of ¶¶ 1-17 above as

1 though fully incorporated herein.

2 18. That WMMHC breached the standard of care for licensed health care
3 facilities by:

4 a. employing convicted violent offenders as crisis intervention
5 employees with access to female patients suffering mental health
6 crises;

7 b. employing inadequately vetted or investigated convicted violent
8 offenders as crisis intervention employees with unsupervised
9 access to female patients suffering mental health crises

10 c. employing convicted violent offenders without confirming their
11 Level Designation pursuant to Montana State law as crisis
12 intervention employees with access to female mental health
13 patients;

14 d. violating safety standards for a Montana employer whose
15 employees have access to a female population of clients and
16 patients.

17 19. As a result of the WMMHC violation in the standard of care, KRISTINA
18 M. KEYS has been damaged in amounts to be hereinafter specified and
19 proved at time of trial.

20 **COUNT III**

21 20. Plaintiff realleges each and every allegation of ¶¶ 1-20 above as
22 though fully incorporated herein.

23 21. WMMHC and its officers, agents, assistants and employees individually
24 and collectively and with actual malice acted with deliberate
25 indifference to a substantial risk of harm to health or safety toward
26 KRISTINA M. KEYS as a client by allowing its employee John Smith's
27 access to her in the following respects:

28 a. allowing its employee subject to confinement to have contact

1 with KRISTINA M. KEYS;

- 2 b. allowing John Smith 1 as an employee who the WMMHC knew
3 was predisposed to sexual misconduct, access to female mental
4 health patients when they knew or should have known: (1) that
5 these employment practices made it highly foreseeable that such
6 employees would violate violently and sexually; and (2)
7 WMMHC's provisions for such employees were insufficient to
8 prevent such abuse and to rescue their clients if such attacks
9 occurred.

10 22. In addition, WMMHC and its officers and employees and with actual
11 malice were deliberately indifferent by failing to train its staff, including
12 John Smith 1, to prevent violent and sexual abuse committed by
13 inmates when WMMHC knew, based on prior experience:

- 14 a. that this practice made it highly foreseeable that some violent
15 offender employees would violently and sexually abuse WMMHC
16 patients; and
17 b. that the procedures and policies regulating contact between
18 patients and its employees were insufficient to prevent such
19 violent and sexual abuses and inadequate to rescue patients
20 when violent and sexual abuses occurred.

21 23. As a result of the above conduct, KRISTINA M. KEYS suffered damages
22 in an amount to be hereinafter specified and proved at time of trial.

23 24. That all conduct of WMMHC as above described was actually malicious
24 as actual malice is defined in law, entitling KRISTINA M. KEYS to
25 punitive damages.

26 **COUNT IV**

27 25. Plaintiff realleges each and every allegation of ¶¶ 1-24 above as
28 though fully incorporated herein.

- 1 26. WMMHC provides case management services that include assessing
2 the consumer's mental status, monitoring the consumer's ability to
3 function in the community, planning treatment goals and future needs,
4 and linking the consumer to community resources.
- 5 27. WMMHC advertises its primary services that assist consumers to
6 achieve their highest quality of life in a relationship of mutual respect,
7 dignity and empowerment and to regain control of their lives despite
8 any mental health disability.
- 9 28. WMMHC committed deceptive and unfair acts in providing its services
10 to KRISTINA M. KEYS by failing to properly screen, by hiring and
11 retaining John Smith 1, a convicted offender, without proper
12 safeguards in place for KRISTINA M. KEYS, and omitting to tell
13 KRISTINA M. KEYS that her crisis intervention worker is a violent
14 offender without level designation.
- 15 29. KRISTINA M. KEYS reasonably relied upon WMMHC to safely provide
16 for her.
- 17 30. As a result of KRISTINA M. KEYS' reasonable reliance that WMMCH
18 would safely provide for her, and that she was in safe hands as a
19 mental health patient, KRISTINA M. KEYS was violated by an unfit
20 agent of WMMHC and damaged in amounts to be hereinafter specified
21 and proved at time of trial.

22 **COUNT V**

- 23 31. Plaintiff realleges each and every allegation of ¶¶ 1-30 above as
24 though fully incorporated herein.
- 25 32. CCCS through its management and employees breached its duty of
26 care to reasonably supervise John Smith 1 by negligently: (1) failing to
27 screen John Smith 1 for patient safety; (2) failing to provide sufficient
28 staff supervision of its employees to protect KRISTINA M. KEYS and

1 other female mental health patients from violent and sexual predation;
2 (3) failing to follow reasonable safety procedures; (4) failing to provide
3 necessary and appropriate security measures to insure its employees
4 did not have personal contact with patients; (5) failing to develop and
5 implement any reasonable system for inmates employed by WMMHC
6 to prevent violent and sexual predation with patients; (6) failing to
7 properly monitor its inmates so as to prevent violent and sexual
8 predation upon patients; and, (7) failing to provide necessary and
9 appropriate personnel to insure for the safety, welfare, and protection
10 of KRISTINA M. KEYS and other WMMHC patients.

- 11 33. As a consequence of the CCCS actions, KRISTINA M. KEYS suffered
12 physical and emotional injuries, severe emotional distress and violation
13 of her constitutional rights

14 **COUNT VI**

- 15 34. Plaintiff JOHN JEWELL by reason of the injuries and damages suffered
16 by his wife KRISTINA M. KEYS as pleaded in Counts I, II, III and IV,
17 has suffered a loss of consortium for which he claims damages against
18 the Defendants.

- 19 35. Due to the multiple breaches of duties, negligence, and actual malice
20 of the Defendants, Plaintiffs have suffered emotional distress and a
21 loss of each Plaintiff's consortium to the point that JOHN JEWELL has
22 filed a Petition for Dissolution of the parties' marriage which KRISTINA
23 M. KEYS has acknowledged and they have both entered into and
24 executed their Final Parenting Plan.

25 **COUNT VII**

- 26 36. Plaintiffs reallege each and every allegation of ¶¶ 1-35 above as
27 though fully incorporated herein.

- 28 37. CCCS and its officers, agents, assistants and employees individually

1 and collectively and with actual malice acted with deliberate
2 indifference to a substantial risk of harm to health or safety toward
3 KRISTINA M. KEYS JOHN JEWELL in the following respects:

- 4 a. accepting John Smith 1, known to be violent offender, into its
5 adult correction program;
- 6 b. placing John Smith 1 into the situation where he violently and
7 sexually abused KRISTINA M. KEYS;
- 8 c. allowing John Smith 1, who CCCS knew was predisposed to
9 violent offenses, access to female mental health patients when
10 it knew or should have known: (1) that John Smith 1 as a violent
11 offender without level designation was a danger who could re-
12 offend; and (2) CCCS provisions for such placement were
13 insufficient to protect female mental health patients.

14 38. In addition, CCCS and its officers and employees and with actual
15 malice were deliberately indifferent in failing to supervise John Smith
16 1, so as not to offend in a situation where offense was a public threat
17 in that:

- 18 a. undesignated violent offenders can re-offend; and
- 19 b. that the procedures and policies regulating inmate contact with
20 female mental health patients was insufficient to prevent violent
21 and sexual abuse.

22 39. As a result of the above conduct, KRISTINA M. KEYS was raped and
23 suffered physical injuries. Further, KRISTINA M. KEYS and JOHN
24 JEWELL suffered emotional injuries, severe emotional distress and
25 violation of their constitutional rights in amounts to be hereinafter
26 specified and proved at time of trial.

27 40. That all conduct of CCCS as above described was conducted with
28 actual malice, entitling KRISTINA M. KEYS and JOHN JEWELL to

punitive damages, equally, share and share alike.

COUNT VIII

41. Plaintiff realleges each and every allegation of ¶¶ 1-40 above as though fully incorporated herein.

42. In December of 2008, the state charged Mr. Marez with failure to register as an offender. Mr. Marez was found guilty of the charge on April 16, 2009 and received a two year sentence. Prior to completing his sentence, Mr. Marez received a second conviction and received another sentence for an additional five years.

43. As of the date of this filing Christopher Marez is currently residing at the Butte Pre-Release Center.

44. The Department of Corrections through the Adult Probation and Parole Bureau and Community Corrections Program through its officers, agents, assistants, and employees individually and collectively failed to act with ordinary care and were deliberately indifferent to a substantial risk of harm to health or safety toward KRISTINA M. KEYS and JOHN JEWELL in the following respects:

- a. failure to classify Christopher Marez as a violent offender or to designate Christopher Marez as a special needs offender;
- b. failure to comply with its duty to insure an appropriate DOC Discharge Report for the transfer of Christopher Marez from Montana State Prison to Community Corrections and Counseling Services;
- c. authorizing the transfer of John Smith 1 into its adult correction program without a violent offender registration;
- d. failing to classify John Smith 1 as a violent offender;
- e. authorizing transfer of John Smith 1 into a community-based

program without offender designation;

- f. authorizing transfer of John Smith 1 into a community-based program ill-equipped to house or treat John Smith without undue risk to the public in general and the plaintiffs in particular;
- g. authorizing John Smith 1, who DOC knew or should have known was predisposed to violent offenses, access to female mental health patients in employment as an inmate and/or resident of the Butte Pre-Release Center while aware: (1) John Smith 1 as a violent offender without level designation was a danger who could offend; and (2) CCCS provision for such placement were insufficient to protect female mental health patients.

45. As a result of the above conduct, KRISTINA M. KEYS was assaulted and raped and suffered physical injuries. Further, KRISTINA M. KEYS and JOHN JEWELL suffered emotional injuries, severe emotional distress and violation of their constitutional rights in amounts to be hereinafter specified and proved at time of trial.

46. That all conduct of the Department of Corrections as above described was conducted with actual malice, entitling KRISTINA M. KEYS and JOHN JEWELL to punitive damages, equally, share and share alike.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs KRISTINA M. KEYS and JOHN JEWELL pray for the following relief against all the Defendants:

- 1. Reasonable, special and general compensatory damages, in the discretion of the jury, in amounts to be hereinafter specified and proved at time of trial;
- 2. Treble damages as provided by the Montana Consumer Protection Act, in amounts to be hereinafter specified and proved at time of trial.
- 3. Punitive damages, in the discretion of the jury, in amounts to be

hereinafter specified and proved at time of trial;

4. Attorney's fees and costs; and,

5. For other and further relief as is just, proper and equitable in this case.

DATED this 25th day of September, 2014.

DOUGLAS HARRIS LAW OFFICES

By:


Douglas D. Harris

DATED this 25th day of September, 2014.

O'BRIEN LAW OFFICE, P.C.

By:


James P. O'Brien
ATTORNEYS FOR PLAINTIFF
KRISTINA M. KEYS

DATED this 25th day of September, 2014.

KNIGHT & DAHOOD

By:


Jeffrey W. Dahood
ATTORNEY FOR PLAINTIFF
JOHN JEWELL

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DEMAND FOR JURY TRIAL

Plaintiffs hereby demand trial by jury of all the issues of fact in this case.

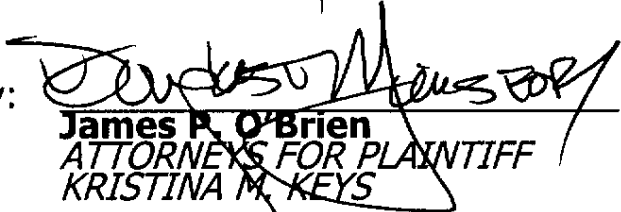
DATED this 25th day of September, 2014.

DOUGLAS HARRIS LAW OFFICES

By: 
Douglas D. Harris

DATED this 25th day of September, 2014.

O'BRIEN LAW OFFICE, P.C.

By: 
James P. O'Brien
ATTORNEYS FOR PLAINTIFF
KRISTINA M. KEYS

DATED this 25th day of September, 2014.

KNIGHT & DAHOOD

By: 
Jeffrey W. Dahood
ATTORNEY FOR PLAINTIFF
JOHN JEWELL